

TITLE 10

PREVIOUS CHAPTER**Chapter 10:26****LOTTERIES AND GAMING ACT**

Acts 26/1998, 22/2001, 14/2002

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ACT

To regulate and control lotteries and gaming and activities connected therewith; to establish the Lotteries and Gaming Board and to provide for its functions; to establish the Lotteries and Gaming Fund and to provide for its management and control; to provide for the promotion and conduct of State lotteries and the safeguarding and application of revenues derived therefrom; to provide for the imposition of levies on persons who conduct lotteries and gaming activities and to regulate the payment of such levies; to amend the Betting and Totalizator Control Act [Chapter 10:02] and to repeal the Gaming-houses Suppression Act [Chapter 9:09], the Lotteries Prohibition Act [Chapter 9:14], the Casino Act [Chapter 10:03], the Lotteries and Gaming (Exemption) Act [Chapter 10:13] and the State Lotteries Act [Chapter 17:07]; and to provide for matters connected with or incidental to the foregoing.

ENACTED by the President and the Parliament of Zimbabwe.

[Date of Commencement: 1st October, 2000.]

PART I

PRELIMINARY

1 Short title and date of commencement

(1) This Act may be cited as the Lotteries and Gaming Act [Chapter 10:26].

(2) This Act came into operation on 1 October 2000.

2 Interpretation

In this Act—

“Board” means the Lotteries and Gaming Board constituted in terms of section three;
“casino” means premises upon which gaming is conducted in accordance with this Act;

“casino area” means the area specified in terms of subparagraph (ii) of paragraph (d) of subsection (1) of section thirty-three;

“casino licence” includes a temporary casino licence referred to in subsection (4) of section thirty-eight;

“committee” means a committee of the Board;

“Fund” means the Lotteries and Gaming Fund established by section fifty-three;

“game” means any game, irrespective of whether or not its result is determined by chance, played with playing-cards, dice or a gaming device for money, property, credit or anything of value, other than an opportunity to play a further game, and includes, without derogating from the foregoing, roulette, bingo, twenty-one, black-jack, chemin de fer, baccarat and computerised racing;

“gaming device” means any equipment or mechanical, electro-mechanical or electronic device, component or machine which is used, directly or indirectly, for the purposes of a game and which brings about the result of a wager by determining win or loss;

“levy” means a levy imposed in terms of section fifty;

“licence” means a licence issued under this Act;

“licensed premises” means premises in respect of which a licence is in force;

“liquor” has the meaning assigned to it by the Liquor Act [Chapter 14:14];

“lottery”—

(a) means a lottery in the generally accepted meaning of the word and, more particularly, a scheme, arrangement, system or device by which any prize is or may be won, drawn, or competed for by lot, dice or any other method of chance, either with or without reference to the happening of an uncertain event other than the result of the application or use of such lot, dice or other method of chance; and

(b) without derogation from paragraph (a), includes—

(i) the schemes or arrangements known as lotto and scratch-card; and

(ii) any other scheme, arrangement, system or device which the Minister may declare, by statutory instrument, to be a lottery;

“lottery licence” means a licence authorising the conduct of a lottery;

“member” means the chairman or any other member of the Board;

“Minister” means the Minister of Home Affairs or any other Minister to whom the President may, from time to time, assign the administration of this Act:

Provided that the President may assign different provisions of this Part to different Ministers;

“operate”, in relation to a gaming device, means to manage or control the device or to use it otherwise than simply as a player of a game;

“place” includes any place, whether public or private, and any vessel, aircraft or vehicle and any part thereof;

“prize” means any movable or immovable property, whether corporeal or incorporeal;

“ticket” means any symbol, sign, token, coupon, warrant or list or any other means or device purporting or intended to confer upon or to recognise in any person the right to compete for or receive a prize or to have any interest in a lottery.

PART II

LOTTERIES AND GAMING BOARD

3 Establishment of Lotteries and Gaming Board

There is hereby established a Board to be known as the Lotteries and Gaming Board, which shall be a body corporate capable of suing and being sued in its corporate name and, subject to this Act, of doing anything that a body corporate may do by law.

4 Functions of Board

The functions of the Board shall be—

- (a) to regulate and control the development and operation of all lotteries and gaming activities; and
- (b) to grant, renew, transfer and terminate licences in respect of lotteries and gaming activities; and
- (c) to ensure that licensees comply with the conditions of their licences; and
- (d) to define areas in which casinos may be established and operated; and
- (e) to make recommendations to the Minister responsible for finance regarding levies and the application of moneys in the Fund; and
- (f) to approve gaming devices; and
- (g) to perform any other function that may be conferred or imposed on the Board in terms of this Act or any other enactment.

[amended by the General Laws Amendment (No.2) Act 2002 promulgated on the 24th January, 2003 - with retrospective effect, in terms of clause 47 - from the 4th February, 2002 - Editor.]

5 Constitution of Board

(1) The Board shall consist of the Permanent Secretary for the Ministry to which the administration of this Act has been assigned ex officio and a chairman and seven other members appointed, subject to this section and section six, by the Minister after consultation with the President and in accordance with such directions as the President may give him.

[amended by the General Laws Amendment (No.2) Act 2002 promulgated on the 24th January, 2003 - with retrospective effect, in terms of clause 47 - from the 4th February, 2002 - Editor.]

(2) Of the members referred to in subsection (1)—

- (a) the chairman shall be appointed for his knowledge and experience of the gaming industry; and
- (b) one shall be nominated by the Minister responsible for finance; and
- (c) one shall be nominated by the Minister responsible for social welfare; and
- (d) one shall be nominated by the Minister responsible for sport; and
- (e) one shall be nominated by the Minister responsible for tourism; and
- (f) one shall be a person registered as a public accountant or public auditor in terms of the Public Accountants and Auditors Act [Chapter 27:12]; and
- (g) one shall be a person registered as a legal practitioner in terms of the Legal Practitioners Act [Chapter 27:07]; and
- (h) one shall be appointed to represent the hotel and entertainment industry; and
- (i) one shall be appointed to represent the game operators.

6 Disqualifications for appointment to Board

(1) The Minister shall not appoint a person as a member and no person shall be qualified to hold office as a member if—

- (a) he is not a citizen of Zimbabwe or ordinarily resident in Zimbabwe; or
- (b) he has been adjudged or otherwise declared insolvent or bankrupt in terms of a law in force in any country, and has not been rehabilitated or discharged; or
- (c) he has made an assignment to or arrangement or composition with his creditors in terms of a law in force in any country, and the assignment, arrangement or composition has not been rescinded or set aside; or
- (d) within the period of five years immediately preceding his proposed

appointment, he has been sentenced—

- (i) in Zimbabwe, in respect of an offence; or
 - (ii) outside Zimbabwe, in respect of conduct which, if committed in Zimbabwe, would have constituted an offence;
- to a term of imprisonment of not less than six months imposed without the option of a fine, whether or not any portion has been suspended, and has not received a free pardon.

(2) A person who is—

- (a) a member of Parliament; or
- (b) a member of two or more other statutory bodies;

shall not be appointed as a member of the Board, nor shall he be qualified to hold office as a member.

(3) For the purposes of paragraph (b) of subsection (2)—

(a) a person who is appointed to a council, board or other authority which is a statutory body or which is responsible for the administration of the affairs of a statutory body shall be regarded as a member of that statutory body;

(b) “statutory body” means—

- (i) any commission established by the Constitution; or
- (ii) any body corporate established directly by or under an Act for special purposes specified in that Act, the membership of which consists wholly or mainly of persons appointed by the President, a Vice-President, a Minister or any statutory body or by a commission established by the Constitution.

7 Terms of office and conditions of service of members

(1) A member shall hold office for such period, not exceeding three years, as the Minister may fix at the time of his appointment.

(2) On the expiry of the period for which a member has been appointed, he shall continue to hold office until he has been re-appointed or his successor has been appointed:

Provided that a member shall not continue to hold office in terms of this subsection for more than six months.

(3) A person who ceases to be a member shall be eligible for re-appointment.

(4) Members shall hold office on such conditions as the Minister may fix.

8 Members to disclose business interests and assets

(1) Before any member, including the chairman, performs any function as a member, he shall disclose in writing to the Minister the full extent of—

(a) every occupation, service or employment which he or his spouse engages in for remuneration; and

(b) all assets held by him or his spouse, in excess of such value as the Minister, in consultation with the Minister responsible for finance, may specify.

(2) Before or as soon as possible after a member or his spouse—

(a) commences any occupation, service or employment for remuneration;

or
(b) acquires any asset in excess of such value as the Minister may have specified in terms of paragraph (b) of subsection (1);

the member shall disclose that fact in writing to the Minister.

9 Vacation of office by member

(1) A member shall vacate his office and his office shall become vacant—

(a) one month after the date he gives notice in writing to the Minister of his intention to resign his office or after the expiry of such other period of notice as he and the Minister may agree; or

(b) on the date he begins to serve a sentence of imprisonment, whether or not any portion has been suspended, imposed without the option of a fine—

- (i) in Zimbabwe, in respect of any offence; or
- (ii) outside Zimbabwe, in respect of conduct which, if committed in Zimbabwe, would have constituted an offence;

or

(c) if he becomes disqualified in terms of paragraph (a), (b) or (c) of subsection (1) of section six, or in terms of subsection (2) of that section, to hold office as a member; or

(d) if he is required in terms of subsection (2) or (3) to vacate his office as a member.

(2) The Minister may require a member to vacate his office if—

(a) the member has been guilty of conduct which renders him unsuitable to continue to hold office as a member; or

(b) the member has failed to comply with any condition of his office fixed in terms of section seven; or

(c) the member has ceased to possess any qualification by reason of which he was appointed; or

(d) the member is mentally or physically incapable of efficiently performing his duties as a member; or

(e) the member contravenes section eight or sixteen; or

(f) the member or his spouse engages in any occupation, service or employment, or holds any asset, which in the Minister's opinion is inconsistent with his duties as a member.

(3) The Minister, on the recommendation of the Board, may require a member to vacate his office if the Minister is satisfied that the member has been absent without the consent of the chairman of the Board from three consecutive meetings of the Board, of which he has been given at least seven days' notice, and that there was no just cause for the member's absence.

10 Suspension of member

The Minister—

(a) may suspend from office a member against whom criminal proceedings are instituted for an offence involving dishonesty; and

(b) shall suspend from office a member who has been sentenced by a court to imprisonment without the option of a fine, whether or not any portion has been suspended, pending determination of the question whether the member is to vacate his office;

and, whilst that member is so suspended, he shall not carry out any duties or be entitled to any remuneration or allowances as a member.

11 Dismissal of Board

(1) Subject to subsection (2), if the Minister considers that—

(a) the Board has contravened this Act or any other law and has failed to rectify the contravention within a reasonable time after being required to do so by the Minister; or

(b) the Board has failed to comply with a direction in terms of section nineteen; or

(c) whether through disagreements amongst its members or otherwise, the Board is unable to carry out any of its functions in terms of this Act;

and that it is in the national interest to do so, the Minister may, by written notice to the chairman and secretary of the Board, dismiss all the members of the Board, and their offices shall become vacant as soon as the secretary receives the notice.

(2) Before dismissing all the members in terms of subsection (1), the Minister shall consult the President and act in accordance with any directions the President may give him.

(3) A member who has been dismissed in terms of subsection (1) shall be eligible for re-appointment.

12 Filling of vacancies on Board

(1) Within three months after a member's death or vacation of office, the Minister shall, subject to this Part, appoint a person to fill the vacancy.

(2) Within one month after dismissing all the members of the Board in terms of

section eleven, the Minister shall, subject to this Part, appoint a new Board.

13 Meetings and procedure of Board

(1) The Board shall hold its first meeting on a date and place fixed by the Minister, and thereafter shall meet for the dispatch of business and adjourn, close and otherwise regulate its meetings and procedure as it thinks fit:

Provided that the Board shall meet at least six times in each financial year.

(2) The chairman of the Board—

(a) may convene a special meeting of the Board at any time; and

(b) shall convene a special meeting of the Board on the written request of the Minister or not fewer than two members, which meeting shall be convened for a date not sooner than seven days and not later than thirty days after the chairman's receipt of the request.

(3) Written notice of a special meeting convened in terms of subsection (2) shall be sent to each member not later than forty-eight hours before the meeting and shall specify the business for which the meeting has been convened.

(4) No business shall be discussed at a special meeting convened in terms of subsection (2) other than—

(a) such business as may be determined by the chairman of the Board, where he convened the meeting in terms of paragraph (a) of subsection (2); or

(b) the business specified in the request for the meeting, where the chairman of the Board convened the meeting in terms of paragraph (b) of subsection (2).

(5) The chairman of the Board or, in his absence, the vice-chairman shall preside at all meetings of the Board:

Provided that, if the chairman and vice-chairman are both absent from any meeting of the Board at which a quorum is present, the members present shall elect one of their number to preside at that meeting as chairman.

(6) Three members shall form a quorum at any meeting of the Board.

(7) Subject to subsection (11), anything authorized or required to be done by the Board may be decided by a majority vote at any meeting of the Board at which a quorum is present.

(8) With the Board's approval, the chairman of the Board may invite any person to attend a meeting of the Board, where the chairman considers that the person has special knowledge or experience in any matter to be considered by the Board at that meeting.

(9) A person invited to attend a meeting of the Board in terms of subsection (8) may take part in the proceedings of the Board as if he were a member, but shall not have a vote on any question before the Board.

(10) Subject to section sixteen, at all meetings of the Board each member present shall have one vote on any question before the Board:

Provided that—

(i) in the event of an equality of votes, the person presiding at the meeting shall have a casting vote in addition to a deliberative vote;

(ii) no member shall take part in the consideration or discussion of, or vote on, any question before the Board which relates to his vacation of office as a member.

(11) Any proposal circulated among all members and agreed to in writing by a majority of them shall have the same effect as a resolution passed by a duly constituted meeting of the Board and shall be incorporated into the minutes of the next succeeding meeting of the Board:

Provided that, if a member requires that such a proposal be placed before a meeting of the Board, this subsection shall not apply to the proposal.

14 Secretary and staff of Board

(1) The Board may employ, on such terms and conditions as it may fix with the approval of the Minister—

- (a) a secretary; and
- (b) such other members of staff as may be necessary for the proper exercise of the Board's functions.

(2) Subject to any directions given to him by the Board, the secretary of the Board shall be responsible for controlling and supervising the Board's staff.

(3) The Board may engage persons otherwise than as employees, to perform services of a specialised, technical or professional nature for the Board.

(4) Any remuneration, allowances, pensions and other benefits to which the persons referred to in subsection (1) or (2) are entitled shall be chargeable to the Fund.

(5) Notwithstanding subsection (1), if the Board so requests and the Public Service Commission so permits, the Minister may assign members of the Public Service employed in his Ministry to perform all or any of the functions of the secretary and members of staff referred to in that subsection.

15 Committees of Board

(1) For the better exercise of its functions, the Board may establish one or more committees in which, with the consent of the Minister, it may vest such of its functions as it thinks fit:

Provided that the vesting of a function in a committee shall not prevent the Board from itself exercising that function, and the Board may amend or rescind any decision of the committee in the exercise of that function.

(2) On the establishment of a committee the Board may appoint to the committee persons who are not members of the Board.

(3) The chairman of the Board or of a committee may at any reasonable time and place convene a meeting of that committee.

(4) The procedure of each committee shall be as fixed from time to time by the Board.

(5) Subject to this section, subsections (2) to (11) of section thirteen shall apply, *mutatis mutandis*, to committees and their members as they apply to the Board and its members.

16 Members of Board or committees to disclose certain connections and interests

(1) In this section—

“relative”, in relation to a member of the Board or a committee, means the member's spouse, child, parent, brother or sister.

(2) If a member of the Board or of a committee, or a relative of such a member—

- (a) knowingly acquires or holds a direct or indirect pecuniary interest in a company or association of persons applying or negotiating for a licence; or

- (b) owns any property or has a right in property or a direct or indirect pecuniary interest in a company or association of persons which results in the member's private interests coming or appearing to come into conflict with his functions as a member;

the member shall forthwith disclose the fact to the Board or the committee, as the case may be.

(3) A member referred to in subsection (2) shall take no part in the consideration or discussion of, or vote on, any question before the Board or the committee, as the case may be, which relates to any interest, property or right referred to in that subsection.

(4) Any person who contravenes subsection (2) or (3) shall be guilty of an offence and liable to a fine not exceeding level five or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

[amended by Act 22 of 2001, with effect from the 10th September, 2002.]

17 Minutes of proceedings of Board and of committees

(1) The Board shall cause minutes of all proceedings of and decisions taken at any meeting of the Board or of a committee to be entered in books kept for the purpose.

(2) Any minutes referred to in subsection (1) which purport to be signed, with the authority of the Board or the committee concerned, as the case may be, by the chairman of the meeting to which the minutes relate or by the chairman of the next

following meeting, shall be accepted for all purposes as prima facie proof of the proceedings of and decisions taken at that meeting.

18 Remuneration and allowances of members of Board or committees

Members of the Board and members of any committee shall be paid from the Fund—

(a) such remuneration, if any, as the Minister may fix for members of the Board or members of committees, as the case may be, generally; and

(b) such allowances, if any, as the Minister may fix to meet any reasonable expenses incurred by the member in connection with the business of the Board or the committee, as the case may be.

19 Policy directions to Board

(1) Subject to subsection (2), the Minister may give the Board such general directions relating to the policy the Board is to observe in the exercise of its functions under this Act as the Minister considers to be necessary in the national interest.

(2) Before giving the Board a direction in terms of subsection (1), the Minister shall inform the Board, in writing, of the proposed direction and the Board shall, within thirty days or such further period as the Minister may allow, submit to the Minister, in writing, its views on the proposal.

(3) The Board shall take all necessary steps to comply with any direction given to it in terms of subsection (1).

(4) Where any direction has been given to it in terms of subsection (1), the Board shall ensure that the direction and any views the Board has expressed on it in terms of subsection (2) are set out in the Board's annual report.

(5) Where the Board is empowered to exercise functions under any other enactment, the Minister responsible for the administration of the enactment concerned may give the Board general directions of policy as to the exercise of those functions, where that Minister considers it necessary to do so in the national interest, and subsections (2), (3) and (4) shall apply, mutatis mutandis, in regard to any such direction.

20 Reports of Board

(1) The Board—

(a) shall, as soon as possible after the 31st December in each year, submit to the Minister an annual report on its activities during that year; and

(b) may at any time submit to the Minister a special report on any matter upon which the Board considers it desirable to report.

(2) The Minister shall lay before Parliament on one of the fourteen days on which Parliament next sits after the report is received by him—

(a) the annual report submitted to him in terms of paragraph (a) of subsection (1); and

(b) any special report submitted to him in terms of paragraph (b) of subsection (1) which the Board requests be laid before Parliament.

21 Validity of decisions and acts of Board and committees

No decision made or act done by or under the authority of the Board or a committee shall be invalid solely because there were one or more vacancies on the Board or the committee concerned or because a disqualified person purported to act as a member of the Board or the committee concerned, as the case may be, when the decision was taken or the act was done or authorized, as the case may be.

PART III

FINANCIAL PROVISIONS RELATING TO BOARD

22 Grants to Board from Fund

At the beginning of each financial year of the Board, the Minister responsible for finance, after consultation with the Minister, shall cause the Board to be paid sufficient moneys from the Fund to meet the expenditure which the Board proposes to incur during that financial year.

23 Funds of Board

The funds of the Board shall consist of—

(a) moneys payable to the Board from the Fund in terms of section

twenty-two; and

(b) any other moneys that may vest in or accrue to Board, whether in terms of this Act or otherwise.

24 Investment of moneys not immediately required by Board

Moneys not immediately required by the Board may be invested in such manner as the Minister, acting on the advice of the Minister responsible for finance, may approve.

25 Financial year of Board

The Board's financial year shall be the period of twelve months ending on the 31st December in each year.

26 Accounts of Board

(1) The Board shall ensure that proper accounts and other records relating to such accounts are kept in respect of all its activities, funds and property, including such particular accounts and records as the Minister may direct.

(2) As soon as possible after the end of each financial year, Board shall prepare and submit to the Minister a statement of accounts in respect of that financial year or in respect of such other period as the Minister may direct.

27 Audit of Board's accounts

(1) Subject to the Audit and Exchequer Act [Chapter 22:03], the Board shall appoint as auditors one or more persons approved by the Minister who are registered as public auditors under the Public Accountants and Auditors Act [Chapter 27:12].

(2) The accounts kept by the Board in terms of subsection (1) of section twenty-six shall be examined by the auditors appointed in terms of subsection (1).

(3) The auditors appointed in terms of subsection (1) shall make a report to the Board and to the Minister on the statement of accounts prepared in terms of subsection (2) of section twenty-six, and in their report shall state whether or not in their opinion the statement of accounts gives a true and fair view of the Board's financial affairs.

(4) In addition to the report referred to in subsection (3), the Minister may require the Board to obtain from the auditors appointed in terms of subsection (1) such other reports, statements or explanations in connection with the Board's activities, funds and property as the Minister may consider expedient, and the Board shall forthwith comply with any such requirement.

(5) If, in the opinion of the auditors appointed in terms of subsection (1)—

(a) they have not obtained any information or explanation they require; or

(b) any accounts or records relating to any accounts have not been properly kept by the Board; or

(c) the Board has not complied with any provision of this Part;

the auditors shall include in their report made in terms of subsection (3) or (4), as the case may be, a statement to that effect.

(6) If in terms of the Audit and Exchequer Act [Chapter 22:03] the Board's accounts are required to be audited by the Comptroller and Auditor-General, any reference in this section to auditors appointed in terms of subsection (1) shall be construed as a reference to the Comptroller and Auditor-General.

28 Powers of auditors

(1) An auditor referred to in section twenty-seven shall be entitled at all reasonable times to require to be produced to him all accounts and other records relating to such accounts which are kept by the Board or its agents and to require from any member of the Board or any committee or from any employee or agent of the Board such information and explanation as in the auditor's opinion are necessary for the purpose of his audit.

(2) Any member, employee or agent referred to in subsection (1) who fails without just cause to comply with a requirement of an auditor in terms of that subsection shall be guilty of an offence and liable to a fine not exceeding level four or to imprisonment for a period not exceeding three months or to both such fine and such imprisonment.

[amended by Act 22 of 2001, with effect from the 10th September, 2002.]

29 Internal auditor

Section 19 of the Audit and Exchequer Act [Chapter 22:03] shall apply, mutatis mutandis, to the appointment of an internal auditor to the Board in all respects as if the Board were a department of the Ministry for which the Minister is responsible.

PART IV

REGULATION AND LICENSING OF LOTTERIES AND GAMING

30 Prohibition against conduct of unlicensed lottery

(1) Except in accordance with the terms and conditions of a licence, no person shall—

- (a) establish, manage or conduct or in any way assist in establishing, managing or conducting a lottery; or
- (b) sell or dispose of, or offer to sell or dispose of, a ticket in a lottery; or
- (c) in any manner advertise a lottery.

(2) No person shall—

- (a) knowingly permit any place under his control to be used for the management or conduct of a lottery; or
 - (b) take, purchase or possess or have any interest in a ticket in a lottery;
- unless the lottery is licensed in terms of this Act.

(3) Any person who contravenes subsection (1) or (2) shall be guilty of an offence and liable^{3/4}

- (a) in the case of a contravention of subsection (1), to a fine not exceeding level seven or to imprisonment for a period not exceeding one year or to both such fine and such imprisonment;

[amended by Act 22 of 2001, with effect from the 10th September, 2002.]

- (b) in the case of a contravention of subsection (2), to a fine not exceeding level six or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

[amended by Act 22 of 2001, with effect from the 10th September, 2002.]

(4) It shall be a defence to a charge of contravening subsection (1) or (2) for the person charged to show that he had reasonable grounds for believing that the lottery concerned was licensed and that his conduct was authorised by the licence.

31 Prohibition against unlicensed gaming activities

(1) Except in accordance with the terms and conditions of a licence, no person shall—

- (a) organise, manage or conduct any game; or
- (b) install or operate a gaming device; or
- (c) play any game; or
- (d) permit any game to be played at or in any place under his control; or
- (e) permit a gaming device to be installed at or in any place under his control.

(2) Any person who contravenes subsection (1) shall be guilty of an offence and liable to a fine not exceeding level seven or to imprisonment for a period not exceeding one year or to both such fine and such imprisonment.

[amended by Act 22 of 2001, with effect from the 10th September, 2002.]

(3) It shall be a defence to a charge of contravening subsection (1) for the person charged to show that at the time of the alleged offence, the place where the game was allegedly played or the gaming device was allegedly installed, as the case may be—

- (a) was not available for the use of persons other than members of a club or association; or
- (b) was used only by personal friends or relatives of the person in control of the place;

and that the place was not habitually used for playing any game or operating any gaming device.

(4) In a prosecution for an offence under subsection (1)—

(a) if it is proved that any playing-card, dice, ball, counter, table, equipment, gaming device or other instrument or requisite normally used for playing any game was found at any place or on the person of anyone found at any place, it shall be prima facie evidence that the person in control of the place permitted the playing of that game there and that any person found at that place was playing that game;

(b) if it is proved that any game was being played or was intended to be played at any place, it shall be presumed, unless the contrary is proved, that the game was played or was intended to be played, as the case may be, for money or some other thing of value;

(c) any person supervising or directing or assisting at, or acting as banker, dealer, croupier or in any similar capacity at, the playing of any game at any place, and any person acting as porter or doorkeeper or holding any other office at any place where any game was being played, shall be presumed, unless the contrary is proved, to have been in control of the place.

32 Application for and issue or refusal of licence

(1) Any person who wishes to—

- (a) conduct a lottery or game; or
- (b) install or operate a gaming device; or
- (c) operate a casino;

may apply to the Board for a licence.

(2) An application for a licence shall be made in the prescribed form and manner and shall be accompanied by—

(a) such information as may be prescribed or as the Board may reasonably require; and

(b) the prescribed fee, if any.

(3) Subject to subsection (4), on receipt of an application for a licence and after conducting such investigation as it considers necessary, the Board shall—

(a) issue the licence applied for if the Board is satisfied that the applicant complies with such requirements as may be prescribed;

(b) refuse the licence applied for if the Board is not satisfied as provided in paragraph (a):

Provided that—

(i) before refusing to issue a licence the Board shall afford the applicant a reasonable opportunity to make representations in the matter;

(ii) after refusing to issue a licence the Board shall provide the applicant, on request, with a statement in writing of the reasons for the refusal.

(4) The Board shall not issue a lottery licence unless^{3/4}_{3/4}

(a) the applicant will conduct the lottery on behalf of the State; or

(b) the applicant will apply the proceeds of the lottery to one or more of the purposes specified in paragraphs (a) to (h) of subsection (2) of section fifty-three.

(5) Every licence issued by the Board shall be signed by the Minister.

[inserted by the General Laws Amendment (No.2) Act 2002 promulgated on the 24th January, 2003 - with retrospective effect, in terms of clause 47 - from the 4th February, 2002 - Editor.]

33 Form and period of validity of licence

(1) A licence shall be in the prescribed form and shall specify—

(a) the full names of the person to whom it is issued; and

(b) its period of validity; and

(c) any conditions subject to which it is issued; and

(d) in the case of a casino licence—

(i) the licensed premises to which the licence relates; and

(ii) the area in or on the licensed premises where gaming may take place; and

(e) such other particulars as may be prescribed.

(2) A licence shall be valid for such period, not exceeding ten years, as the Board may fix when issuing it.

34 Terms and conditions of licence

(1) A licence shall be issued subject to such terms and conditions as may be prescribed or as the Board may fix in terms of subsection (2).

(2) When issuing a licence, the Board may fix conditions—

(a) specifying the purposes to which the proceeds of any lottery or game authorised by the licence may be applied;

(b) regulating the method of operation of any lottery or game authorised by the licence;

(c) specifying the number of lotteries or games that may be conducted under the licence:

Provided that no licence shall authorise the conduct of more than one lottery, unless the lotteries are to be conducted on behalf of the State;

(d) regulating the days and hours when any game may be played;

(e) requiring the licensee to keep books, accounts and records relating to the operations authorised by the licence;

(f) requiring the submission to the Board of reports and returns relating to the operations authorised by the licence;

(g) providing for the payment, collection and remission of any levy, fee or tax, whether payable in terms of this Act or any other enactment;

(h) in the case of a casino licence—

(i) relating to the games that may be played in any gaming room;

(ii) ensuring that the licensed premises are operated with decency, dignity, good taste and honesty;

(iii) ensuring that the licensed premises do not detract from the natural beauty and amenities of the area in which the premises are situated;

(iv)

[repealed by the General Laws Amendment (No.2) Act 2002 promulgated on the 24th January, 2003 - with retrospective effect, in terms of clause 47 - from the 4th February, 2002 - Editor.]

(i) as to any other matter which, in the Board's opinion, it is necessary or desirable to specify in the licence.

[inserted by the General Laws Amendment (No.2) Act 2002 promulgated on the 24th January, 2003 - with retrospective effect, in terms of clause 47 - from the 4th February, 2002 - Editor.]

35 Renewal of licence

(1) The Board may renew a licence upon application being made to it for such renewal by the licensee.

(2) Sections thirty-two, thirty-three and thirty-four shall apply, mutatis mutandis, in respect of any renewal referred to in subsection (1).

36 Transfer or amendment of licence

(1) A licence shall not be transferred without the consent of the Board.

(2) The Board may at any time, either on its own initiative or on application by the licensee, amend the terms or conditions of a licence.

(3) An application for the transfer or amendment of a licence shall be made to the Board in the prescribed form and manner and shall be accompanied by the prescribed fee, if any.

(4) The Board shall not—

(a) amend a licence, otherwise than at the request of the licensee; or

(b) refuse an application to transfer or amend a licence;

unless the Board has informed the licensee of its intention to do so and has given the licensee a reasonable opportunity to make representations in the matter.

(5) Where the Board has amended a licence, otherwise than at the request of the licensee, or has refused an application to transfer or amend a licence, the Board shall

provide the licensee, on request, with a statement in writing of the reasons for such amendment or refusal, as the case may be.

37 Suspension or cancellation of licence

(1) Subject to this section, the Board may suspend or cancel a licence if the Board is satisfied—

(a) that the licensee or any employee of his has been convicted of—

(i) an offence under this Act; or

(ii) in the case of a casino licence, an offence relating to the sale of liquor on the licensed premises; or

(iii) any other offence which, in the Board's opinion, renders it desirable in the public interest to suspend or cancel the licence;

or

(b) that the licensee obtained the licence, or secured its renewal or amendment, through a false representation to the Board; or

(c) that the licensee has contravened or failed to comply with any term or condition of the licence; or

(d) that the licensee had failed to pay any fee, levy or tax payable by him under this Act or any other enactment; or

(e) where the licensee is a company, that—

(i) an application has been made to the High Court for the licensee to be placed under judicial management or to be wound up; or

(ii) a resolution has been passed by the licensee's members for the licensee to be voluntarily wound up;

or

(f) in the case of a casino licence, that the licensee has failed to carry on, maintain or operate the licensed premises to the satisfaction of the Board.

(2) The Board shall not suspend or cancel a licence in terms of subsection (1) unless it has informed the licensee of the intention to do so and has given the licensee a reasonable opportunity to make representations in the matter.

(3) Where the Board has suspended or cancelled a licence in terms of subsection (1), it shall provide the licensee, on request, with a statement in writing of the reasons for the suspension or cancellation.

38 Special provisions relating to casino licences

(1) During the currency of a casino licence, other than a temporary casino licence referred to in subsection (4), the licensee shall maintain a hotel on the licensed premises, of such size and standard as is specified in the licence.

(2) The holder of a casino licence may apply for the issue, or for the grant of authority for the issue, renewal, removal or transfer of a casino liquor licence in terms of the Liquor Act [Chapter 14:14].

(3) Notwithstanding anything in the Shop Licences Act [Chapter 14:19], the holder of a casino licence may carry on the trade or business of selling any goods by retail on such part of the licensed premises as are specified in the licence, without being required to hold a licence in terms of that Act.

(4) The Board may issue a temporary casino licence authorising the operation of a casino for a period not exceeding thirty days in conjunction with a trade fair, agricultural show or other such function.

PART V

CONDUCT OF LOTTERIES BY OR ON BEHALF OF STATE

39 Interpretation in Part V

In this Part—

“authorised person” means a person who has been authorised in terms of paragraph (b) of subsection (1) of section forty to promote and conduct a State lottery;

“Director” means the Director of State Lotteries appointed in terms of section forty-six;

“State lottery” means a lottery promoted and conducted in terms of this Part;

“State Lotteries Account” means the account created in terms of subsection (1) of section forty-three;

“subscribe” means to pay over money for the right to compete for a prize in a State lottery;

“ticket” means a certificate or card given to a person subscribing to a State lottery;

“ticket seller” means a person authorised in terms of this Part to sell tickets.

40 Power of Minister to conduct or authorise the conduct of State lotteries

(1) Subject to this Part, the Minister, on behalf of the State, may—

(a) promote and conduct a State lottery; or

(b) authorise a person who holds a lottery licence to promote and conduct a State lottery.

(2) An authority granted in terms of paragraph (b) of subsection (1) shall be in writing and, subject to subsection (3), shall specify the terms and conditions under which the authorised person may promote and conduct a State lottery.

(3) Terms and conditions specified in terms of subsection (2) shall—

(a) require the authorised person to keep proper accounts and records in respect of all revenues arising from and expenditure incurred in connection with any State lottery promoted or conducted by him; and

(b) require the authorised person to submit to the Minister and the Board, at such intervals as may be specified in the authority, audited accounts in respect of his promotion and conduct of any State lottery; and

(c) permit the authorised person to retain from the net revenues arising from any State lottery no more than such percentage or amount as may be specified in the authority, and require him to pay the remainder into the State Lotteries Account; and

(d) require the authorised person to permit the entry and inspection of his premises and operations in terms of section fifty-eight, and to co-operate with any reasonable requirement or request made by a person conducting an inspection in terms of that section; and

(e) provide for the immediate termination of the authority if the authorised person’s lottery licence expires or is suspended or cancelled in terms of this Act.

(4) Whenever the Minister grants an authority in terms of paragraph (b) of subsection (1), he shall cause notification thereof to be published in the Gazette, which notice shall specify—

(a) the name of the authorised person; and

(b) the duration of the authority; and

(c) the nature of the lotteries that the authorised person is permitted to promote and conduct; and

(d) the percentage or amount that the authorised person is permitted to retain from the revenues arising from any State lottery.

(5) The Minister shall without delay lay before Parliament a copy of any audited accounts he receives from an authorised person in compliance with the requirement specified in paragraph (b) of subsection (3).

41 Promotion and conduct of State lotteries

(1) Subject to this Act and, in the case of an authorised person, to the terms and conditions of his licence and authority, the Minister or an authorised person may do everything that is necessary or expedient for the purpose of promoting or conducting a State lottery, and in particular may—

(a) determine the number of State lotteries to be held:

Provided that at least three State lotteries shall be held in any one year;

and

(b) determine the manner in which prizes may be won, drawn or competed for; and

(c) design and print tickets; and

- (d) appoint ticket sellers and fix the places at which and the period and hours during which tickets may be sold; and
- (e) design and create the official stamp to be used for the stamping of tickets sold; and
- (f) fix the selling price of tickets; and
- (g) determine the number and value of prizes; and
- (h) make all arrangements for the drawing of prizes or the determination of the winners of prizes; and
- (i) determine the manner in which a prize shall be claimed; and
- (j) decide the mode of payment of prizes; and
- (k) provide for the disposal of prizes as to which any dispute has arisen; and
- (l) declare forfeited any unclaimed prize and determine its disposal:
 - Provided that no such forfeiture shall take effect until twelve months after the date of the award of the prize; and
- (m) publish lists of prize-winning numbers; and
- (n) incur and defray expenses.

(2) An authorised person shall promote and conduct any State lottery in accordance with the terms and conditions of his authority and his lottery licence.

42 Minors not to be sold tickets nor entitled to prizes

No ticket seller shall sell a ticket to a person apparently under the age of eighteen years, nor shall any person under that age be entitled to recover any prize in a State lottery.

43 State Lotteries Account

(1) The Minister shall create a special account to be known as the State Lotteries Account, into which shall be paid all moneys received by the State from the sale of tickets in or from the promotion or conduct of any State lottery.

(2) Where a State lottery is conducted by an authorised person, he shall be entitled to deduct from the revenues arising from the State lottery—

(a) the amount of all prizes paid and payable; and

(b) the percentage or amount that he is permitted by his authority to retain from the revenues;

and shall pay the balance of the revenues to the Secretary of the Ministry for which the Minister is responsible, who shall cause the moneys to be paid forthwith into the State Lotteries Account.

(3) In addition to the payment of any amounts in terms of subsection (1) of section forty-four, the Minister shall cause—

(a) the sums determined by the President in terms of subsection (1) of section forty-five to be paid from the State Lotteries Account to the Fund; and

(b) the amounts payable in terms of subsection (2) of section forty-five to be paid from the State Lotteries Account to or for the credit of the Sports and Recreation Commission established by the Sports and Recreation Commission Act [Chapter 25:15].

(4) The balance of the moneys in the State Lotteries Account, after the payment of all amounts that are payable from it in terms of this Part, shall be paid into the Consolidated Revenue Fund at such times as the Minister may direct.

(5) The Minister may withdraw moneys from the State Lotteries Account for the purpose of making any payment authorised or required by this Part.

44 Payment of prizes

(1) Where the Minister conducts a State lottery on behalf of the State, he shall cause all prizes to be paid from the State Lotteries Account.

(2) Where an authorised person conducts a State lottery, he shall pay all prizes, subject to his authority, from the revenues arising from the lottery.

(3) All prizes shall be paid in money of legal tender in Zimbabwe.

45 Proportion of proceeds of State lotteries to be used for charity or sport

(1) Subject to subsection (2), the President may, in respect of any State lottery, determine that a sum not exceeding twenty-five per centum of the amount subscribed to the lottery shall be paid into the Fund to be utilised for social service, public welfare or relief of distress within Zimbabwe.

(2) The Minister may designate not more than one State lottery in any year as a Sports Lottery, and in that event the full amount paid into the State Lotteries Account in respect of such lottery, less any expenses that may have been incurred by the State in conducting the lottery, shall be paid to or for the credit of the Sports and Recreation Commission established by the Sports and Recreation Commission Act [Chapter 25:15].

46 Director of State Lotteries and other officers

(1) The Minister may appoint, for such period and on such terms and conditions as he may determine—

(a) a person to be the Director of State Lotteries; and

(b) such other persons as may be necessary for the proper conduct of State lotteries and the administration of the State Lotteries Account.

(2) The Minister may—

(a) make provision for pecuniary benefits for persons appointed under subsection (1) on their death, retirement, resignation, discharge or other termination of service, and for that purpose to effect policies of insurance, establish pension or provident funds and make such other provision as may be necessary to secure for such persons any or all of the benefits to which the provisions of this paragraph relate;

(b) require persons in respect of whom provision is made under paragraph (a) to make contributions to any scheme established in terms of that paragraph;

(c) withdraw moneys from the State Lotteries Account for the purpose of paying remuneration and allowances to persons appointed under subsection (1) and contributing to any scheme established in terms of paragraph (b).

47 Minister may delegate powers

(1) The Minister may delegate any of the powers conferred upon him by this Part to—

(a) the Director or any other person appointed in terms of section forty-six; or

(b) any member of the Public Service who is employed in the Ministry for which the Minister is responsible.

(2) A member of the Public Service to whom any power has been delegated in terms of subsection (1) shall, in the exercise of the power, continue to be subject to the law relating to the Public Service.

48 Non-liability of State and officers

The bona fide payment of any prize money to any person shall discharge the State, the Minister and any authorised person making the payment from all liability whatsoever in respect of any such payment, notwithstanding any forgery, fraud, mistake, negligence or delay which may have been committed or have occurred in connection therewith:

Provided that nothing in this section shall be construed as exempting the State, the Minister or an authorised person from liability for damage or loss caused to any person through forgery, fraud, negligence or delay on the part of—

(a) the Director or any other person appointed in terms of section forty-six; or

(b) any member of the Public Service; or

(c) any employee or agent of an authorised person;

in relation to his duties under this Act.

49 Audit of State Lotteries Account

(1) The State Lotteries Account shall be audited by the Comptroller and Auditor-General, who for the purpose shall have all the functions conferred on him by

sections 8 and 9 of the Audit and Exchequer Act [Chapter 22:03] as though the moneys in those accounts were public moneys and the Director and other persons appointed in terms of section forty-six were officers as defined in that Act.

(2) If the Director or any other person appointed in terms of section forty-six—

(a) fails or refuses to provide the Comptroller and Auditor-General with any explanation or information required by him for the purpose of an audit in terms of subsection (1); or

(b) hinders or obstructs the Comptroller and Auditor-General in the conduct of an audit in terms of subsection (1);

he shall be guilty of an offence and liable to a fine not exceeding level four or to imprisonment for a period not exceeding three months or to both such fine and such imprisonment.

[amended by Act 22 of 2001, with effect from the 10th September, 2002.]

(3) The Comptroller and Auditor-General shall embody the accounts referred to in subsection (1) in his annual report made to Parliament in terms of the Audit and Exchequer Act [Chapter 22:03].

PART VI

LEVIES

50 Imposition of levies

(1) Subject to this Part, the Minister responsible for finance, in consultation with the Minister and the Board, may by statutory instrument impose one or more levies on licensees and on persons licensed in terms of the Betting and Totalizator Control Act [Chapter 10:02].

(2) In regard to a levy imposed in terms of subsection (1), the Minister responsible for finance may, by statutory instrument, prescribe—

(a) the persons responsible for the payment of the levy; and

(b) the persons responsible for the collection and remittal of the levy; and

(c) the manner and times at which the levy shall be paid, collected and remitted; and

(d) the imposition of interest and additionally, or alternatively, a surcharge if the levy is not paid within the time prescribed; and

(e) the books and records to be kept and the returns and information to be furnished to the Board or any other person for the purpose of the levy.

(3) All levy payments shall be remitted to the Fund.

51 Withdrawal, suspension or increase of levy

Without derogation from section 21 of the Interpretation Act [Chapter 1:01], the Minister responsible for finance, in consultation with the Minister and the Board, may by statutory instrument—

(a) withdraw any levy; or

(b) suspend any levy in whole or in part; or

(c) increase the rate or incidence of any levy.

52 Recovery of unpaid levy

A levy and any interest or surcharge connected therewith shall be a debt due to the Fund, and any amount of levy or of such interest or surcharge that is not paid, collected or remitted may be recovered by the Minister responsible for finance, in his capacity as trustee of the Fund, by proceedings in a court of competent jurisdiction.

PART VII

LOTTERIES AND GAMING FUND

53 Establishment and objects of Lotteries and Gaming Fund

(1) There is hereby established a Fund, to be known as the Lotteries and Gaming Fund, which shall be vested in the Minister responsible for finance as trustee of the Fund.

(2) Subject to this Act, the object of the Fund shall be to provide moneys to finance—

(a) private voluntary organisations registered under the Private Voluntary

Organisations Act [Chapter 17:05]; and

(b) sporting or recreational activities and development approved by the Sports and Recreation Commission established by section 3 of the Sports and Recreation Commission Act [Chapter 25:15]; and

(c) artistic or cultural development; and

(d) social service, public welfare or the relief of distress; and

(e) education; and

(f) health; and

(g) the preservation of the environment; and

(h) the preservation of national monuments declared in terms of the National Museums and Monuments Act [Chapter 25:11] or other heritage sites; and

(i) the activities of the Board, including the payment of remuneration, pensions and other benefits to or in respect of the Board's staff; and

(j) any other beneficiaries or projects identified by the Board.

54 Composition of Fund

The Fund shall consist of—

(a) levies, together with any interest or surcharge payable thereon; and

(b) fees payable for the issue, renewal, transfer or amendment of licences;

and

(c) any moneys that may be payable to it from moneys appropriated for the purpose by Act of Parliament; and

(d) any other moneys that may accrue to it, whether in terms of this Act or otherwise.

55 Administration of Fund

(1) Subject to this Act, in his capacity as trustee of the Fund, the Minister responsible for finance may exercise any power conferred upon a trustee by the common law.

(2) The Minister responsible for finance shall open one or more banking accounts into which all moneys received on behalf of the Fund shall be paid.

(3) The Minister responsible for finance, on the recommendation of the Board, may make payments from the moneys in the Fund for any purpose specified in subsection (2) of section fifty-three.

(4) The Minister responsible for finance, with the concurrence of the Public Service Commission, may assign members of the Public Service employed in his Ministry to perform duties connected with the administration of the Fund.

56 Financial year of Fund

The financial year of the Fund shall be the period of twelve months ending on the 31st December each year.

57 Books of account and audit of Fund

(1) The Minister responsible for finance shall ensure that proper accounts and other records relating thereto are kept in relation to all the transactions of the Fund.

(2) The accounts of the Fund shall be audited by the Comptroller and Auditor-General, who shall have all the powers conferred upon him by section 9 of the Audit and Exchequer Act [Chapter 22:03] as though the assets of the Fund were public moneys.

(3) Sections 14, 15 and 17 of the Audit and Exchequer Act [Chapter 22:03] shall apply, mutatis mutandis, in relation to the accounts of the Fund as though the Fund had been established in terms of section 30 of that Act.

PART VIII

GENERAL

58 Powers of entry and inspection

(1) Subject to this section, a person authorised thereto in writing by the Board may at all reasonable times—

(a) enter and inspect any licensed premises or any place where a licensee conducts or carries on, or is believed on reasonable grounds to conduct or carry on, any lottery or gaming activity or any activity authorised by his licence; and

- (b) inspect all facilities and equipment in or at any premises referred to in paragraph (a); and
- (c) require any person upon premises referred to in paragraph (a)—
 - (i) to disclose all information at his disposal; and
 - (ii) to produce any book, statement or record or copy thereof or extract therefrom;

that relate in any way to any lottery or gaming activity carried on by the licensee or to any levy, fee or tax payable by him; and

- (d) make copies of or take extracts from any book, statement or record referred to in paragraph (c); and

- (e) remove from premises referred to in paragraph (a) any equipment or thing which is believed on reasonable grounds to be connected with any lottery or gaming activity carried on by the licensee or to any levy, fee or tax payable by him:

Provided that such equipment or thing shall be retained only for so long as may be necessary for the purpose of any examination, investigation, trial or inquiry.

(2) The powers of entry and inspection conferred by subsection (1) shall not be exercised except with the consent of the owner or person in charge of the premises concerned, or where there are reasonable grounds for believing that it is necessary to exercise them—

- (a) for the prevention, investigation or detection of an offence under this Act or for the obtaining of evidence relating to such an offence; or

- (b) for the enforcement of any levy or tax.

(3) A person who exercises any power under subsection (1) shall produce his written authority from the Board if required to do so by any person affected by the exercise of his powers.

(4) Any person who, without lawful excuse—

- (a) hinders or prevents a person authorised under subsection (1) from exercising any power under that subsection; or

- (b) fails or refuses to produce any book, statement or record when required to do so in terms of subsection (1); or

- (c) upon being required in terms of subsection (1) to disclose any information, fails or refuses to do so or provides information which he knows to be false or which he does not believe on reasonable grounds to be true;

shall be guilty of an offence and liable to a fine not exceeding level five or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

[amended by Act 22 of 2001, with effect from the 10th September, 2002.]

59 Information to be kept confidential

(1) A member, employee or agent of the Board, and any person to whom a return is submitted in terms of this Act, shall not disclose to any other person, except in the performance of his functions under this Act or when required to do so by any law, any information which he may have acquired in the course of his duties under this Act and which relates to the financial or business affairs of a licensee or an applicant for a licence.

(2) Any person who contravenes subsection (1) shall be guilty of an offence and liable to a fine not exceeding level seven or to imprisonment for a period not exceeding one year or to both such fine and such imprisonment.

[amended by Act 22 of 2001, with effect from the 10th September, 2002.]

60 Appeals

(1) Subject to this section, any person who is aggrieved by—

- (a) the issue or refusal of a licence in terms of section thirty-two, or any term or condition of a licence; or

- (b) the renewal, transfer or amendment of a licence in terms of section thirty-five or thirty-six, or a refusal to renew, transfer or amend a licence; or

(c) the suspension or cancellation of a licence, or a refusal to suspend or cancel a licence; or

(d) such other decision or action in terms of this Act as may be prescribed;

may appeal to the Minister against the decision or action concerned.

(2) An appeal in terms of subsection (1) shall be made in the form and manner prescribed and shall be lodged with the Minister within thirty days after the appellant was notified of the decision or action appealed against.

(3) In an appeal in terms of subsection (1) the Minister may conduct or cause to be conducted such inquiry into the matter as he thinks appropriate and may confirm, vary or set aside the decision, proposal or action appealed against:

Provided that the Minister shall ensure that the appellant and the Board are given an adequate opportunity to make representations in the matter.

(4) The Minister shall ensure that the appellant and the Board are notified of any decision reached by him in terms of subsection (3).

(5) Any person who is aggrieved by a decision of the Minister on an appeal in terms of subsection (1) may appeal against his decision to the Administrative Court within the time and in the manner prescribed in rules of court.

(6) In an appeal in terms of subsection (5) the Administrative Court may confirm, vary or set aside the decision or action appealed against and give such other order, whether as to costs or otherwise, as the Court considers just.

61 Cheating in game or lottery

Any person who, by fraud or a wilful breaking of the rules—

(a) in playing any game; or

(b) in bearing a part in the stakes, wagers or ventures, or in betting on the sides or hands, of those playing any game; or

(c) in wagering on the event of any game, sport, pastime or exercise; or

(d) in organising or participating in any lottery;

wins for himself or anyone else any money or valuable thing shall be deemed guilty of the theft of that money or thing by means of false pretences and shall be punishable accordingly.

62 Prohibition against gaming by minors

(1) Any holder of a casino licence, or any employee or agent of such a licensee, who permits a person who is a minor to enter or remain in any part of the casino area shall be guilty of an offence and liable to a fine not exceeding level six or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

[amended by Act 22 of 2001, with effect from the 10th September, 2002.]

(2) Any licensee or agent or employee of a licensee who permits a person who is a minor—

(a) to play any game authorised by his licence; or

(b) to participate in any lottery authorised by his licence;

shall be guilty of an offence and liable to a fine not exceeding level seven or to imprisonment for a period not exceeding one year or to both such fine and such imprisonment.

[amended by Act 22 of 2001, with effect from the 10th September, 2002.]

(3) It shall be a defence to a charge under subsection (1) or (2) for the person charged to prove that he neither knew nor had reasonable cause to suspect that the minor concerned was in fact a minor.

63 Validity of certain gaming contracts

A debt arising out of a lottery or game that is authorised by a licence shall be recoverable by proceedings in a court, notwithstanding the rule of the common law that gambling debts cannot be recovered.

64 Recovery of subscriptions and prizes in illegal lottery

(1) A subscriber to a lottery that is not authorised by a licence may, by proceedings in a court, recover his subscription, or its value, from any person conducting or

beneficially interested in the lottery or from the person who received his subscription, whether or not—

- (a) the subscriber knew that the lottery was not authorised by a licence; or
- (b) the prizes in the lottery have been distributed.

(2) No transfer or alienation of any prize shall be claimable by a subscriber to a lottery that is not authorized by a licence, nor shall transfer of any immovable property won as a prize be lawful:

Provided that a subscriber who has won and actually received a prize shall not be liable to be called upon to return or restore it or its value to any person.

65 Regulations

(1) The Minister, after consultation with the Board, may by regulation prescribe anything which by this Act is required or permitted to be prescribed or which, in his opinion, is necessary or convenient to be prescribed for carrying out or giving effect to this Act.

(2) Regulations made in terms of subsection (1) may provide for—

- (a) the advertising of applications for licences and the hearing of objections thereto and representations in connection therewith;
- (b) the manner in which licensees are to conduct the activities to which their licences relate;
- (c) books and records to be kept by licensees, and returns and information to be furnished by them;
- (d) fees and charges to be paid by licensees and other persons for anything done in terms of this Act.

(3) Regulations may provide penalties for contraventions thereof, but no such penalty shall exceed a fine of level four or imprisonment for a period of three months or both such fine and such imprisonment.

[amended by Act 22 of 2001, with effect from the 10th September, 2002.]

66 Amendment of Cap. 10:02

The Betting and Totalizator Control Act [Chapter 10:02] is amended—

- (a) in section 2 in subsection (1)—
 - (i) in the definition of “authorised deputy” by the deletion of “eleven” and the substitution of “nine”;
 - (ii) by the insertion of the following definition—
“ ‘Board’ means the Lotteries and Gaming Board established by section 3 of the Lotteries and Gaming Act [Chapter 10:26];”;
 - (iii) by the repeal of the definition of “bookmakers licence” and the substitution of—
“ ‘bookmakers licence’ means a bookmakers licence issued or renewed in terms of section five;”;
 - (iv) by the repeal of the definition of “committee”;
 - (v) by the repeal of the definition of “member”;
- (b) by the repeal of sections 5 to 11 and the substitution of—

“5 Applications for and issue or renewal of bookmakers licences

(1) Any person who wishes to take out a bookmakers licence or to renew a bookmakers licence may apply in writing to the Board:

Provided that the application of a person who wishes to renew a bookmakers licence shall, if lodged with the Board after the 15th December in the year preceding that for which such renewal is sought, be treated as if it were an application for a certificate authorizing the issue, as opposed to the renewal, of a bookmakers licence.

(2) On receipt of an application in terms of subsection (1), the Board may, if it is satisfied that the applicant—

- (a) is a fit and proper person to carry on the business of a bookmaker; and
- (b) is a member of a betting club; and
- (c) has lodged with the betting club of which he is a member security of an amount and class sufficient for the settlement of any betting transactions entered

into by him as a bookmaker;

and that, in the case of an applicant who intends to carry on the business of a bookmaker in a prescribed area, the issue of a bookmakers licence to him would not have the result of increasing the number of licensed bookmakers carrying on business in the prescribed area to a number greater than the maximum number fixed in terms of subsection (1) of section fourteen, grant the licence to the applicant.

(3) A bookmakers licence shall—

- (a) be in the prescribed form; and
- (b) contain such particulars as may be prescribed of the betting room or place in which the holder of the bookmakers licence is authorised to bet; and
- (c) expire on the 31st December of the year in which it was issued unless it is sooner cancelled or terminated in terms of this Act.

(4) If an application in terms of subsection (1) is refused, the applicant may appeal in writing against such refusal to the Minister.

(5) Section 60 of the Lotteries and Gaming Act [Chapter 10:26] shall apply, mutatis mutandis, in respect of an appeal in terms of subsection (4).

6 Transfer of business of licensed bookmakers

(1) In this section—

‘transferee’ means the person to whom the business referred to in subsection (2) is to be sold or otherwise disposed of.

(2) Any licensed bookmaker or the executor, curator, assignee or trustee, as the case may be, of a licensed bookmaker who, during the currency of the bookmakers licence concerned or any renewal thereof, wishes to sell or otherwise dispose of the business to which such bookmakers licence relates may apply in writing to the Board for authority to transfer such business to the person to whom such business is to be sold or otherwise disposed of.

(3) On receipt of an application in terms of subsection (2) the Board may, if it is satisfied that the transferee—

- (a) is a fit and proper person to carry on the business of a bookmaker; and
- (b) is a member of a betting club; and
- (c) has lodged with the betting club of which he is a member security of an amount and class sufficient for the settlement of any betting transactions entered into him as a bookmaker;

transfer the betting licence concerned to the transferee.

(4) If an application in terms of subsection (2) is refused, the applicant may appeal in writing against such refusal to the Minister.

(5) Section 60 of the Lotteries and Gaming Act [Chapter 10:26] shall apply, mutatis mutandis, in respect of an appeal in terms of subsection (4).

7 Provision for carrying on business of licensed bookmaker who dies or is under legal disability

(1) If a licensed bookmaker—

- (a) dies; or
- (b) is declared by a court to be incapable of managing his own affairs or a prodigal; or
- (c) is detained as a mentally disordered or intellectually handicapped person under the order of a judge;

or if his estate is assigned or sequestrated under the law relating to insolvency, his executor, curator, assignee or trustee, as the case may be, may apply to the Board for the appointment of a person to carry on the business of the licensed bookmaker during the currency of the bookmakers licence concerned or any renewal thereof.

(2) On receipt of an application in terms of subsection (1) the Board may, if it is satisfied that—

- (a) the person nominated in such application is—
 - (i) a fit and proper person to carry on the business of a bookmaker; and
 - (ii) a member of a betting club;

and

(b) the security referred to in paragraph (c) of subsection (2) of section five can be used for the settlement of any betting transactions entered into by the person referred to in paragraph (a) in the course of carrying on the business of the licensed bookmaker concerned;

authorise the person referred to in paragraph (a) in writing to carry on the business of the licensed bookmaker concerned during the currency of the bookmakers licence or any renewal thereof referred to in subsection (1).

(3) Any person authorised in terms of subsection (2) to carry on the business of a licensed bookmaker shall, during the currency of the bookmakers licence or renewal thereof referred to in subsection (1) or until such authority is cancelled or terminated in terms of subsection (4) or while he carries on such business, whichever is the shortest period, be deemed to—

(a) be a licensed bookmaker for the purposes of this Act who is authorised to bet in the betting room or place in which the licensed bookmaker whose business he is carrying on was authorised to bet; and

(b) be a member of a betting club; and

(c) have lodged security referred to in paragraph (c) of subsection (2) of section five.

(4) An authority granted in terms of subsection (2) may be cancelled by—

(a) a court, on the conviction of the person authorised in terms of that subsection of an offence in terms of this Act; or

(b) the Board, on the grounds that the person authorised in terms of that subsection is not a fit and proper person to carry on the business of a bookmaker:

Provided that the Board shall not cancel the authority except after due inquiry at which the person authorised in terms of that subsection has had the opportunity of being heard in person or represented by a legal practitioner; and shall terminate with effect from the cancellation of the bookmakers licence concerned in terms of section fifteen.

8 Provision for carrying on business of licensed bookmaker during his temporary absence

(1) A licensed bookmaker who, by reason of departure on holiday, illness or other cause, is or will be temporarily unable to carry on his business as a bookmaker may apply to the Board for the appointment of a person to carry on his business on his behalf during his absence.

(2) On receipt of an application in terms of subsection (1) the Board may, if it is satisfied that—

(a) the person nominated is—

(i) a fit and proper person to carry on the business of a bookmaker; and

(ii) a member of a betting club;

and

(b) the security referred in paragraph (c) of subsection (2) of section five can be used for the settlement of any betting transactions entered into by the person referred to in paragraph (a) in the course of carrying on the business of the applicant; authorise the person referred to in paragraph (a) in writing to carry on the business of the applicant for the period specified in such authority.

(3) Any person authorised in terms of subsection (2) to carry on the business of a licensed bookmaker shall, during the currency of the bookmakers licence or renewal thereof referred to in subsection (1) or until such authority is cancelled or terminated in terms of subsection (4) or while he carries on such business, whichever is the shortest period, be deemed to—

(a) be a licensed bookmaker for the purposes of this Act who is authorised to bet in the betting room or place in which the licensed bookmaker whose business he is carrying on was authorised to bet; and

(b) be a member of a betting club; and

(c) have lodged security referred to in paragraph (c) of subsection (2) of section five.

(4) An authority granted in terms of subsection (2) may be cancelled by—

(a) a court, on the conviction of the person authorised in terms of that subsection of an offence in terms of this Act; or

(b) the Board, on the grounds that the person authorised in terms of that subsection is not a fit and proper person to carry on the business of a bookmaker:

Provided that the Board shall not cancel the authority except after due inquiry at which the person authorised in terms of that subsection has had the opportunity of being heard in person or represented by a legal practitioner; and shall terminate with effect from the cancellation of the bookmakers licence concerned in terms of section fifteen.

9 Appointment of authorised deputies

(1) A licensed bookmaker may apply to the Board for the appointment of a person employed or to be employed by him to be his authorised deputy.

(2) On receipt of an application in terms of subsection (1) the Board may, if it is satisfied that the person referred to in such application is a fit and proper person to assist the applicant in carrying on his business, appoint such person, in writing, to be the applicant's authorised deputy and shall, on such appointment, endorse on the applicant's bookmakers licence such of the person's particulars as may be prescribed.

(3) The Board may at any time, without assigning any reason therefor and without giving prior notice of its intention to do so, cancel the appointment of an authorised deputy, and such cancellation shall not be subject to appeal.

(4) An authorised deputy may carry on business on behalf of the licensed bookmaker on whose licence his prescribed particulars are endorsed during the absence of such licensed bookmaker from the betting room or place in which such licensed bookmaker is authorized to bet, for a period or periods not exceeding four hours in the aggregate on any one day.”;

(c) by the repeal of section 13 and the substitution of—

“13 Board may direct admission of person to betting club

(1) If any person who wishes to carry on the business of a bookmaker and is able to acquire the business of a licensed bookmaker is refused admission as a member by a betting club, he may, within a period of thirty days of being notified of such refusal, appeal in writing to the Board.

(2) On receipt of an appeal in terms of subsection (1), the Board may, after consultation with the betting club concerned, direct the betting club—

(a) to admit the appellant as a member; and

(b) to permit the appellant to lodge with it security referred to in paragraph (c) of subsection (2) of section five.”;

(d) in section 14—

(i) in subsection (2) by the deletion of—

A. “a committee” and the substitution of “the Board”;

B. “in respect of which the committee is established”;

(ii) in subsection (3)—

A. by the deletion of “committee concerned” and the substitution of “Board”;

B. in paragraph (a) by the deletion of “in terms of the Betting and Totalizator Control Act [Chapter 75 of 1974] during the twelve months ending on the 31st December, 1971” and the substitution of “in terms of this Act during a period of twelve months ending on such date as the Minister may specify”;

C. in paragraph (b)—

I by the deletion of “31st December, 1971” wherever it occurs and the substitution of “date specified in terms of paragraph (a)”;

II in subparagraph (ii) by the deletion of “the Betting and Totalizator Control Act [Chapter 75 of 1974] and”;

- (iii) in subsection (4) by the deletion of “committee” and the substitution of “Board”;
 - (e) in section 15—
 - (i) in subsection (2)—
 - A. by the deletion of “Minister may, on the recommendation of the appropriate committee,” and the substitution of “Board may”;
 - B. in paragraph (d) by the deletion of “(3) of section seven” and the substitution of “(2) of section five”;
 - C. by the repeal of the proviso;
 - (ii) in subsection (3) by the deletion of “A committee shall not make a recommendation referred to in” and the substitution of “The Board shall not cancel a bookmakers licence in terms of”;
 - (f) in section 16 by the insertion in subsection (1) after paragraph (g) of the following paragraph—
 - “and
 - (h) pay any levy or fee imposed upon him in terms of the Lotteries and Gaming Act [Chapter 10:26].”;
 - (g) in section 18—
 - (i) by the deletion of “Secretary” wherever it occurs and the substitution of “Board”;
 - (ii) by the repeal of subsection (4) and the substitution of—
 - “(4) Section 60 of the Lotteries and Gaming Act [Chapter 10:26] shall apply, mutatis mutandis, in respect of an appeal in terms of subsection (3).”;
 - (h) in section 23 by the insertion in subsection (1) after paragraph (b) of the following paragraph—
 - “and
 - (c) pay any levy or fee imposed upon him in terms of the Lotteries and Gaming Act [Chapter 10:26].”
- 67 Repeals and savings
- (1) In this section—
“fixed date” means the date fixed in terms of subsection (2) of section one as the date of commencement of this Act.
- (2) Subject to this section, the following Acts are repealed—
- (a) the Gaming-houses Suppression Act [Chapter 9:09]; and
 - (b) the Lotteries Prohibition Act [Chapter 9:14]; and
 - (c) the Casino Act [Chapter 10:03]; and
 - (d) the Lotteries and Gaming (Exemption) Act [Chapter 10:13]; and
 - (e) the State Lotteries Act [Chapter 17:07].
- (3) Any regulations which were made in terms of the Casino Act [Chapter 10:03] or the Lotteries and Gaming (Exemption) Act [Chapter 10:13] and which were in force immediately before the fixed date shall continue in force as if they had been made in terms of section sixty-five, and may be amended or repealed accordingly.
- (4) Any licence or authority which was granted in terms of the Casino Act [Chapter 10:03] or the Lotteries and Gaming (Exemption) Act [Chapter 10:13] and which was in force immediately before the fixed date shall remain in force, subject to subsection (5), as if it were a licence issued under the appropriate provision of this Act.
- (5) Sections 10, 11 and 12 of the Casino Act [Chapter 10:03] shall continue to apply in respect of any licence granted in terms of that Act and continued in force in terms of subsection (4).
- (6) Anything whatsoever which was made, done or commenced in terms of the State Lotteries Act [Chapter 17:07] and which had or was capable of having effect immediately before the fixed date shall continue to have or to be capable of having, as the case may be, the same effect as if it had been made, done or commenced in terms of the appropriate provision of this Act.

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